



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/402,155 12/06/99 POHL

A BAYER10.202

WILLIAM C GERSTENZANG
NORRIS MCLAUGHLIN & MARCUS
220 EAST 42ND STREET, 30TH FLOOR
NEWYORK, NEWYORK NY 10591-5144

PM82/0509

EXAMINER

PEZZLO, B

ART UNIT

PAPER NUMBER

3613

DATE MAILED:

05/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/402,155

Applicant(s)

POHL ET AL.

Examiner

Benjamin A Pezzlo

Art Unit

3613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Claims 6-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.
2. Applicant's election with traverse of the restriction requirement in Paper No. 7 is acknowledged. The traversal is on the ground(s) that a search of the hydraulic suspension system of claim 7 and the method of claim 8 would turn up suspensions using the devices of claims 1-5. This is not found persuasive because the Applicant has not demonstrated that the species listed relate to a single inventive concept as required by PCT Rule 13.1, specifically, that a suspension including gas springs and EMF or MF dampers is related to a mass damper including EMF or MF dampers.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to because "coupling elements" 67 and 68 are not numbered in Fig. 6 (see page 10 line 2).

Correction is required.

Specification

4. The disclosure is objected to because of the following informalities:

page 7, line 17, "112" should be "12".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. No steps are recited in this method claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Shtarkman (US 4869476).

Shtarkman discloses a spring/mass vibratory force coupler, see Fig. 1, with variable damping for coupling masses to a reference mass, comprising at least a vibratory mass 12, a damper 24, two springs 22 and 26, for connecting the vibratory mass 12 and the reference mass

Art Unit: 3613

14, of which at least one spring 22 can be optionally connected up, the spring 22 being connected up by means of coupling element 24 based on electrorheological or magnetorheological fluid.

Re claims 2-3, the mass of spring/damper element 30 provides an absorber mass which can be connected up by a voltage applied thereto.

Re claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have add any number of concentric spring/damper element in order to apply the device to the damping requirements of a particular system (see claim 1, "a plurality of sealed chambers").

Re claim 5, see Fig. 10, gas spring 204 and torsion spring 32a.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shtarkman ('368), Sick et al., Ticks, Doi, Tabata, Sato, Wendt et al., Leitman et al., Ivers et al., Jolly et al., Sproston et al., Carlson et al., Endo et al., Mitsui, and Takano et al. disclose related devices.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Oberleitner can be reached on (703) 308-2569. The fax phone numbers for

Application/Control Number: 09/402,155

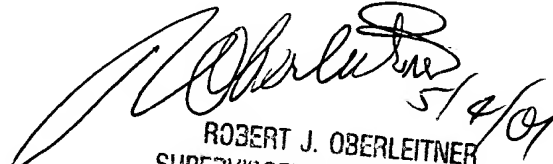
Page 5

Art Unit: 3613

the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP
May 3, 2001


ROBERT J. OBERLEITNER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600